

Seaboard Marine, Ltd. and International Longshoremen's Association, Local 1922, affiliated with International Longshoremen's Association, AFL-CIO, Petitioner. Case 12-RC-8176

February 5, 1999

DECISION ON REVIEW AND ORDER REMANDING
BY MEMBERS LIEBMAN, HURTGEN, AND
BRAME

On January 9, 1998, the Acting Regional Director for Region 12 issued a Decision and Direction of Election in the above-entitled proceeding, in which the Petitioner seeks to represent a unit limited to approximately 17 employees in three classifications—trailer interchange clerks, vehicle and equipment receiving clerks, and equipment control clerks—employed by the Employer at its Port of Miami terminal facility. The Acting Regional Director found that the petitioned-for unit constitutes a unit appropriate for the purpose of collective bargaining, and ordered an election.

Thereafter, in accord with Section 102.67 of the Board's Rules and Regulations, the Employer filed a timely request for review of the Acting Regional Director's Decision, maintaining that the only appropriate unit is an employerwide or overall unit which would include all of the Employer's approximately 181 employees in an additional 12 classifications who are employed at the Port of Miami terminal or at the Employer's 36th Street location (the Yard). The Petitioner filed a request for review. The election was held on February 5, 1998, and the ballots impounded.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having carefully considered the entire record, including the Petitioner's Brief on Review, we agree with the Employer that the unit in which the Acting Regional Director has directed an election is not appropriate. It is well established that the Board does not approve fractured units, *i.e.*, combinations of employees that are too narrow in scope or that have no rational basis. *Colorado National Bank of Denver*, 204 NLRB 243 (1973). In the instant case, we find, contrary to the Acting Regional Director, that the petitioned-for employees do not share a sufficiently distinct community of interest from other employees to warrant a separate unit and, therefore, that the unit grouping sought by the Petitioner is an arbitrary one. See, e.g., *Brand Precision Services*, 313 NLRB 657 (1994); *Transerv Systems*, 311 NLRB 766 (1993).

The employees in the three classifications the Petitioner seeks to represent perform similar unskilled clerical and/or visual inspection tasks as do the employees in a number of excluded classifications. It is clear from the record that, as the Employer contends, there is a high degree of functional integration in its operations and that the work performed by these employees is directly re-

lated to and integrated with the work of the majority, if not all, of the Employer's remaining employees.

The clerk-type and inspection duties of the petitioned-for vehicle and equipment clerks (who prepare "dock receipts" in acceptance of vehicles to be transported, and who visually inspect, and enter data on, these vehicles), trailer exchange clerks (who visually inspect, and enter data on, all trucks and equipment entering or exiting the terminal), and equipment control clerks or "ship checkers" (who inventory equipment and enter identification numbers on all equipment and cargo being loaded or unloaded shipside) are not so dissimilar from the duties of many other classifications to warrant separate representation. In addition, while the various classifications have separate immediate supervision, the Employer maintains a system of wage levels that are applied companywide, as well as fringe benefits, work and safety rules, and personnel policies and practices that are applied uniformly.

Based on the above, we find that, at a minimum, the appropriate unit must also include the following employees who perform similar clerical and inspection tasks: dispatch employees (traffic clerks, dispatchers and driver compliance employees who process booking and equipment information and coordinate customer orders and pickups), boarding agents (who perform various clerical tasks in preparing for ship arrival including the coordination of arrivals with various regulatory agencies), inbound coordinators (who enter data from ship manifests and notify customers of arrival times), claims clerks (who process all claims of damaged cargo), parts/purchasing clerks (who order/receive/check/ inventory parts and materials for all terminal operations), and stevedore coordinators (who develop "stow plans" for outbound vessels).

In rejecting the petitioned-for unit, although we emphasize that the duties and minimal skills of the petitioned-for employees are not distinct from those of several other classifications, we do not suggest a precise unit finding. In particular, we note that the record before us is insufficient to determine whether the appropriate unit also must include the Employer's maintenance employees including mechanics,¹ equipment operators, clock drivers, and vehicle shuttlers.

Accordingly, we reverse the Acting Regional Director's Decision and vacate the election. Because the Petitioner has expressed a willingness to represent employees in any unit the Board finds appropriate, we remand this proceeding to the Regional Director for further appropriate action, including the determination of an appropriate unit for collective bargaining, the adequacy of

¹ We note that in Case 12-RC-6969, a unit limited to the Employer's mechanics and mechanic helpers was found appropriate. The Employer's Request for Review of the Regional Director's determination in that case was withdrawn prior to a ruling by the Board.

the Petitioner's showing of interest in such a unit, and the scheduling of a new election.

ORDER

IT IS ORDERED that the election held on February 5, 1998, be vacated, and that the case be remanded to the Regional Director for further appropriate action.